



Application No.: 09/402,112
Amendment Dated July 22, 2003
Reply to Interview Summary dated: June 23, 2003

Attorney Docket No.: FUK-63

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REMARKS

Applicants would like to thank Examiner Steven VerSteege for the courtesies extended in the telephone interviews of June 19, 2003.

During these telephone conversations the Advisory Action dated March 7, 2003, was discussed with the Examiner. Specifically, the refusal of the Examiner to consider the translated priority document was addressed. With respect to that translated priority document, the Examiner believes that it is to be treated as a declaration/affidavit. If treated as such, then the submission thereof after-final can be treated as a new issue, in the estimation of the Examiner.

In response to this argument, the part of 37 CFR § 1.55 that seems to apply in this instance was read to the Examiner. That rule gives no indication that the translated priority document and/or the statement that the translation of the certified copy is accurate is to be treated as a declaration or an affidavit as per either of Rules 131 or 132. The Examiner agreed to look into this issue some more.

However, in a follow-up teleconference with the Examiner (again on June 19, 2003), the Examiner relayed that other Examiners had been consulted and that they were in general agreement that the verified translation of the priority document and the accompanying verification statement together constitute an issue requiring further consideration and/or effectively form a newly submitted 132 declaration. As such, the Examiner chose to continue to refuse entry and/or consideration of the translation of the priority document.



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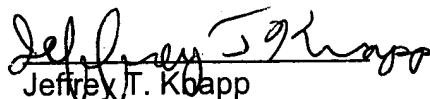
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Another issue that was discussed was the examination of the generic claim in light of the elected species. The Examiner basically argued that, if a particular species is found, it had to read on the broader generic claims. The Examiner did agree that the other non-elected species would have to be examined if the species and generic claims were found allowable based upon the art found in the search for the elected species.

The Examiner did indicate that we have options available to us to gain consideration of the translation of the priority document, these options including the filing of a petition or a Request for Continued Examination (RCE).

If the Examiner has any questions or comments that would speed prosecution of this case, the Examiner is invited to call the undersigned at 260/485-6001.

Respectfully submitted,


Jeffrey T. Knapp
Registration No. 45,384

JTK/mdc

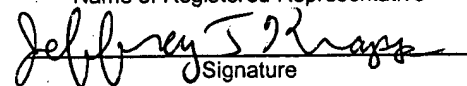
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on: July 22, 2003.

Jeffrey T. Knapp, Registration No. 45,384
Name of Registered Representative


Signature

July 22, 2003
Date